

suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the senate on May 12, 1977: Yeas 31, Nays 0; May 30, 1977, senate concurred in house amendments: Yeas 31, Nays 0; passed the house, with amendments, on May 26, 1977: Yeas 136, Nays 4, ten present not voting.

Approved June 10, 1977.

Effective June 10, 1977.

**WEATHER MODIFICATION—PERMIT ELECTIONS—
VIOLATIONS**

CHAPTER 360

S. B. No. 632

An Act relating to elections prior to issuance of certain weather modification permits and providing discipline and a penalty for certain acts; amending Section 14.061(a), Water Code, as amended; and adding Sections 14.0641 and 14.0911; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Subsection (a), Section 14.061, Water Code, as amended, is amended ⁶³ to read as follows:

"(a) The board, in accordance with its regulations, upon a finding that the weather modification and control operation as proposed in the permit application will not significantly dissipate the clouds and prevent their natural course of developing rain in the area where the operation is to be conducted to the material detriment of persons or property in that area, and after approval at an election if covered by Section 14.0641 of this code, may issue a weather modification permit to each applicant who:

"(1) holds a valid weather modification license;

"(2) pays the permit fee;

"(3) publishes a notice of intention and submits proof of publication as required by this chapter; and

"(4) furnishes proof of financial responsibility."

Sec. 2. Chapter 14, Water Code, is amended by adding ⁶⁴ Section 14.0641 to read as follows:

"Sec. 14.0641. Election for Approval of a Permit that Includes Authorization for Hail Suppression

"(a) In this section:

"(1) 'Target area' means that area described by metes and bounds or other specific bounded description set out in the application for a permit.

"(2) 'Operational area' means that area that joins the target area which is reasonably necessary to use in order to effectuate the purposes over the target area without affecting the land or land

63. V.T.C.A. Water Code, § 14.061, sub- 64. V.T.C.A. Water Code, § 14.0641.
sec. (a).

owners in the operational area, but in no event to exceed eight miles from the limits of the target area. The operational area shall be described by metes and bounds or other specific bounded description and shall be set out in the application for a permit.

“(b) No permit may be issued by the board before the end of the 30-day period immediately following the first publication of notice and then only in those counties or parts of counties in the target area or operational area in which the majority of the qualified electors have not disapproved the issuance of a permit if an election has been held, or in any county or part of a county in the target area or operational area if no petition for an election has been filed.

“(c) Persons eligible to vote in elections held under this section shall include qualified voters in counties or parts of counties included in the target area or operational area. Where the target area or operational area includes only part of a county, an election held under this section may be held only in the election precincts which are included entirely within or are partially included in said areas. All qualified voters in such precincts shall be entitled to vote in these elections.

“(d) On written request of at least 25 qualified voters residing in the target area or operational area mentioned in the notice requesting an election accompanied by unsigned petitions, the county clerk of each county within the target area or operational area shall certify and mark for identification petitions for circulation, and upon return to the county clerks of such petitions signed by at least 10 percent of the qualified voters residing in each county within the target area or operational area in the notice requesting an election the commissioners court of each county shall call and hold an election. The petition must be filed with the clerk of each county within 30 days immediately following the first publication of notice. The election shall be held within 21 days after the petition is received to determine whether or not the qualified voters in the target area or operational area approve the issuance of the permit. Immediately on calling the election, the clerk of each county within the target area or operational area shall notify the board of the date of the election.

“(e) The petition for the election shall read substantially as follows: ‘The following qualified voters of _____ County request the Commissioners Court of _____ County to call an election at which the qualified voters shall be asked to vote on the proposition of whether or not they approve of the issuance of a weather modification permit that includes authorization for hail suppression (description of area).’ Each qualified voter signing the petition shall give his full name and address and voter registration number. Within five days after receiving a petition under this section, the commissioners court shall have the county clerk of the county check the names on the petition against the voter registration lists of the county and certify to the commissioners court the number of qualified voters signing the petition as reflected by checking the county’s voter registration lists. If only a part of a county is included in the target area or operational area, the county clerk shall also certify that those signing the petition reside in an election precinct in the county totally or partially included in the target area or operational area. On certification by the county clerk, the petition shall be filed with the official records of the county and shall be available for public inspection.

“(f) A person filing a petition with the county judge shall deposit with the county judge an amount of money estimated by the county clerk

to be sufficient to cover the costs of the election, to be held by the county judge until the result of the election to approve or disapprove the issuance of the permit is officially announced. If the result of the election is against the issuance of the permit, the county judge shall return the deposit to the person filing the petition or his agent or attorney, but if the result of the election favors the issuance of the permit, the county judge shall pay the cost and expenses of the election from the deposit and return the balance of the deposit to the person filing the petition or his agent or attorney.

"(g) The ballots for an election under this section shall be printed to provide for voting for or against the proposition: 'The issuance of a permit providing for weather modification including authorization for hail suppression and control in (description of area).'

"(h) The order calling the election shall provide for the time and place or places for holding the election, the form of the ballots, and the presiding judge for each voting place.

"(i) The commissioners court shall publish a copy of the election order in a newspaper of general circulation in the county or in the part of the county within the target area or operational area at least once before the seven-day period immediately preceding the day of the election. Absentee voting shall be conducted beginning the second day after the day of the publication of the election order as provided for elsewhere in this subsection and continuing through the day immediately preceding the day of the election, the provisions of any other statute of this state notwithstanding.

"(j) The presiding judge of each voting place shall supervise the counting of all votes cast and shall certify the results to the commissioners court within five days after the election. A copy of the results are to be filed with the county clerk and become a public record.

"(k) Within five days after the results are filed, the commissioners court shall declare the results.

"(l) The commissioners court of each county holding an election shall send certified copies of the results of the election to the board within 24 hours after the results are declared under Subsection (j) of this section.

"(m) If a majority of the qualified voters voting in the election precincts which are wholly within the target area vote in favor of issuance of the permit, the board may issue the permit as provided in this subchapter. If a majority of the qualified voters voting in any election precinct any part of which is located in the operational area vote against the issuance of the permit, that part of the county shall be excluded from the coverage of the permit, but if the board finds that a weather modification and control operation is still feasible, a permit may be issued covering areas in which no election is requested and areas in which the voters give their approval as provided in this section.

"(n) If a permit is denied under Subsection (m) of this section, no application for a permit covering all or part of the same target area or operational area so denied may be considered, and no permit under that application may be issued by the board, for a period of two years following the date of the election.

"(o) If a permit including authorization for hail suppression is to cover only a part of a county, only those qualified voters residing in an election precinct or precincts of the county included in the target area or operational area are eligible to sign a petition and to vote at an election under this section, and in computing the vote, only a majority of

those qualified voters residing in such areas and voting in the election shall be necessary to carry the proposition in that county.

"(p) No permit shall be issued which provides for or allows the seeding of clouds for hail suppression outside the target area, except that seeding may be done in the operational area where it is reasonably calculated to take effect only within the target area. This shall not prohibit the observation of cloud and cloud formations.

"(q) The board may monitor any program under such conditions as the board deems advisable.

"(r) The provisions of this section do not apply to any permits in effect at the time this section becomes law.

"(s) Upon petition as provided in this section, the commissioners court of any county outside but adjacent to a county included in the operational area of an existing or proposed permit shall call and hold an election on the proposition of whether or not the qualified voters of the county approve of the issuance of any permit authorizing hail suppression in the county. If the county voters voting in such election disapprove the issuance of permits authorizing hail suppression, the board may not issue any such permit covering the county until the proposition has been approved by a subsequent election."

Sec. 3. Chapter 14, Water Code, as amended, is amended by adding ⁶⁵ Section 14.0911 to read as follows:

"Sec. 14.0911. Permit Violation

"(a) In this section, 'permit area' means the area affected and the area of operations covered by a permit.

"(b) After notice and hearing, the board may issue a warning or, if a warning has already been issued, may suspend a permit up to a period of two years if the board finds that a permittee, through carelessness, performed all or any part of a weather modification and control operation outside the boundaries of the permit area. The board may suspend the permit up to a period of two years without prior issuance of a warning if the permittee, through gross carelessness, performed all or any part of a weather modification and control operation outside the boundaries of a permit area.

"(c) A person who violates a provision of a permit is guilty of a Class A misdemeanor."

Sec. 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the senate on May 13, 1977: Yeas 25, Nays 3; May 20, 1977, senate concurred in house amendments: Yeas 27, Nays 3; passed the house, with amendments, on May 18, 1977: Yeas 138, Nays 6, four present not voting.

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65. V.T.C.A. Water Code, § 14.0911.